

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	CASE NO. 1:23-CR-565
	)	
Plaintiff,	)	JUDGE CHARLES E. FLEMING
	)	
vs.	)	
	)	<b>OPINION AND ORDER</b>
ROBERT HILEY,	)	
	)	
Defendant.	)	
	)	

On December 14, 2023, Defendant filed a motion requesting bond pending his sentencing, which is scheduled for March 20, 2024. (ECF No. 19). Defendant previously pleaded guilty to counts 1-6 of the indictment (ECF No. 13), which consisted of four counts of distribution of a controlled substance in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) and two counts of possession with intent to distribute a controlled substance in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). (ECF No. 18). Defendant moved for bond under 18 U.S.C. § 3143(a)(2) because he pleaded guilty to an offense described in 18 U.S.C. § 3142(f)(1)(C). (ECF No. 19). That subsection includes offenses “for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act.” 18 U.S.C. § 3142(f)(1)(C). Defendant is correct that the offenses he pleaded guilty to make him only eligible for bond under 18 U.S.C. § 3143(a)(2).

Under 18 U.S.C. § 3143(a)(2), a person found guilty of an offense described in 18 U.S.C. § 3142(f)(1)(C) and awaiting sentencing shall be detained unless: 1) the Court finds there is a substantial likelihood that a motion for acquittal or new trial will be granted **OR** 2) the Government has recommended that no sentence of imprisonment be imposed. 18 U.S.C. § 3143(a)(2)(A). If one of those criteria is met, the Court then considers whether there is clear and convincing evidence

that Defendant is not likely to flee or pose a danger to any other person or the community. 18 U.S.C. § 3143(a)(2)(B).

Defendant's motion and the Government's opposition only address the criteria in (a)(2)(B) and not the criteria in (a)(2)(A). (*See* ECF No. 19 and 22). The Court need not reach a determination of flight risk or dangerousness because Defendant does not meet either of the criteria in (a)(2)(A). There is not a substantial likelihood that a motion for acquittal or new trial would be granted because Defendant pleaded guilty to all charges in the indictment. There is also nothing before the Court indicating there will be a recommendation from the government of no prison time for Defendant at sentencing.

As a result, Defendant has not met the criteria in 18 U.S.C. § 3143(a)(2). Defendant's motion for bond is **DENIED**. The Court's prior directive on December 22, 2023 requiring the U.S. Pretrial Services and Probation Office to investigate the proposed address is **RESCINDED AS MOOT**. (Order [non-document] dated 12/22/2023).

**IT IS SO ORDERED.**

Date: December 29, 2023



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**CHARLES E. FLEMING**  
**UNITED STATES DISTRICT JUDGE**